

UNITED STATES DISTRICT COURT :
WESTERN DISTRICT OF NEW YORK

JASON MCNEIL and
PAMELA MCNEIL

Plaintiffs,

vs.

COMPLAINT - JURY TRIAL DEMAND

Civ. No.

LIVE NATION, INC.,
LIVE NATION WORLDWIDE, INC.,
LIVE NATION MTOURS (U.S.A.), INC.,
LIVE NATION CONCERTS, INC.,
LIVE NATION MARKETING, INC.,
LIVE NATION LGTOURS (USA), LLC,
KEY BRAND FAMILY ENTERTAINMENT, INC.,
LIVE NATION UTOURS (USA), INC.,
KEY BRAND ENTERTAINMENT INC.,
CNL INCOME DARIEN LAKE, LLC.,
DLFE MANAGEMENT COMPANY, LLC,
DLFE MANAGEMENT COMPANY II, LLC,
CONTEMPORARY SERVICES CORPORATION ("CSC"),
SMG FOOD AND BEVERAGE, LLC,
ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC, and
CRAIG M. LAWSON

Defendants.

PLAINTIFFS, JASON MCNEIL and PAMELA MCNEIL by their attorneys, BROWN

CHIARI LLP, for their Complaint in the above-entitled action, state as follows, upon information and belief:

1. Plaintiffs, JASON MCNEIL and PAMELA MCNEIL are citizens of the State of Alabama and reside at 5442 Anna Lane, Tuscaloosa, Alabama 35406.

2. At all relevant times herein, Defendants, LIVE NATION, INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (USA), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC., and KEY BRAND ENTERTAINMENT INC., were foreign business corporations, organized and existing pursuant to the laws of the State of Delaware and authorized to conduct business in the State of New York, and were conducting business at Darien Lake Performing Arts Center, 9993 Alleghany Road, Darien Center, New York 14040.

3. At all relevant times herein, Defendant, LIVE NATION LGTOURS (USA), LLC, was a foreign limited liability company organized and existing pursuant to the laws of the State of Delaware and authorized to conduct business in the State of New York, and was conducting business at Darien Lake Performing Arts Center, 9993 Alleghany Road, Darien Center, New York 14040.

4. At all relevant times herein, Defendant, CNL INCOME DARIEN LAKE, LLC, was a foreign limited liability company, organized and existing pursuant to the laws of the State of Florida and authorized to conduct business in the State of New York, and was conducting business at Darien Lake Performing Arts Center, 9993 Alleghany Road, Darien Center, New York 14040.

5. At all relevant times herein, Defendant, DLFE MANAGEMENT COMPANY, LLC, was a foreign limited liability company, organized and existing pursuant to the laws of the State of Missouri and authorized to conduct business in the State of New York, and was conducting business at Darien Lake Performing Arts Center, 9993 Alleghany Road, Darien Center, New York 14040.

6. At all relevant times herein, Defendant, DLFE MANAGEMENT COMPANY II, LLC, was a foreign limited liability company, organized and existing pursuant to the laws of the State of Georgia and authorized to conduct business in the State of New York, and was conducting business at Darien Lake Performing Arts Center, 9993 Alleghany Road, Darien Center, New York 14040.

7. At all relevant times herein, Defendant, CONTEMPORARY SERVICES CORPORATION ("CSC") was a foreign business corporation, organized and existing pursuant to the laws of the State of California and authorized to conduct business in the State of New York, and was conducting business at Darien Lake Performing Arts Center, 9993 Alleghany Road, Darien Center, New York, 14040.

8. At all relevant times herein, Defendant, SMG FOOD AND BEVERAGE, LLC, was a foreign limited liability company, organized and existing pursuant to the laws of the State of Pennsylvania and authorized to conduct business in the State of New York, and was conducting business at Darien Lake Performing Arts Center, 9993 Alleghany Road, Darien Center, New York 14040.

9. At all relevant times herein, Defendant, ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC, was a foreign limited liability company, organized and existing pursuant to the laws of the State of Pennsylvania and authorized to conduct business in the State of New York, and was conducting business at Darien Lake Performing Arts Center, 9993 Alleghany Road, Darien Center, New York 14040.

10. Defendant, CRAIG M. LAWSON, is a Canadian citizen residing at 233 Talbot Street, Courtland, Ontario N0J1E0.

11. The United States District Court for the Western District of New York has original jurisdiction in this case pursuant to 28 U.S.C. § 1332(a) because of complete diversity of citizenship between Plaintiffs and Defendants.

12. The amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

13. That pursuant to 28 U.S.C. §1391(a) (2), venue is proper in the United States District Court of the Western District of New York, because this is the judicial district in which a substantial part of the events or omissions giving rise to this claim occurred, and the property on which the subject events occurred is situated within same judicial district.

**AS AND FOR A FIRST CAUSE OF ACTION
PLAINTIFFS ALLEGE:**

14. Plaintiffs repeat and re-allege paragraphs 1 through 13.

15. At all times herein relevant, Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC and/or DLFE MANAGEMENT COMPANY II, LLC, owned, operated, maintained and ran property and premises known as the Darien Lake Performing Arts Center, located at 9993 Alleghany Road in Darien Center, Genesee County, New York.

16. On July 5, 2013, Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, LIVE NATION, INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC. and/or KEY BRAND ENTERTAINMENT INC., promoted a Kid Rock concert at the Darien Lake Performing Arts Center, located at 9993 Alleghany Road, Darien Center, New York 14040.

17. At all times herein relevant, pursuant to a contract with Defendant, LIVE NATION WORLDWIDE, INC., Defendant, CSC, provided training of security and/or crowd management personnel and scheduled such personnel to provide security and/or crowd management services in connection with the aforesaid Kid Rock concert at the Darien Lake Performing Arts Center, located at 9993 Alleghany Road, Darien Center, New York, 14040.

18. On July 5, 2013, Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC and/or DLFE MANAGEMENT COMPANY II, LLC, had a non-delegable duty to provide reasonable security measures in order to minimize foreseeable dangers to visitors on their property, including the danger associated with criminal acts of third parties.

19. At all times herein relevant, Defendant, CSC, had a contractual duty to provide reasonable security measures in order to minimize foreseeable dangers to persons in attendance on the aforesaid property in connection with the aforementioned Kid Rock concert, including the danger associated with criminal acts of third parties.

20. As a result of the failure of CSC to exercise reasonable care in the performance of its duties, said Defendant launched a force or instrument of harm and/or caused the Plaintiff, JASON MCNEIL, to suffer serious and permanent injuries as a result of his detrimental reliance on the continued performance by CSC of its duties under its contract with Defendant, LIVE NATION WORLDWIDE, INC.

21. Upon information and belief, on July 5, 2013, Defendants, LIVE NATION, INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC. and/or KEY BRAND ENTERTAINMENT INC. had a duty, or assumed a duty, to minimize foreseeable dangers to persons in attendance on the aforesaid property in

connection with the Kid Rock concert that was held on that date, including the danger associated with criminal acts of third parties.

22. On July 5, 2013, while the Plaintiff, JASON MCNEIL, was lawfully on the aforesaid property owned and/or operated by Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, and/or DLFE MANAGEMENT COMPANY II, LLC, he was the victim of an attack by the Defendant, CRAIG M. LAWSON, causing said Plaintiff to sustain serious and permanent injuries, including, but not limited to, a severe brain injury, with a large left-sided subdural hematoma and a mid-line shift, necessitating multiple surgeries over the course of an extended hospitalization, and resulting in, among other severe limitations, extensive cognitive deficits, together with multiple other debilitating impairments, including, without limitation, speech, ability to read and write, auditory comprehension, and ability to ambulate.

23. Upon information and belief, immediately prior to said attack upon the Plaintiff, JASON MCNEIL, said Defendant, CRAIG M. LAWSON, had attacked another visitor to the aforesaid premises, and as a result of said attack, it was determined by Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, CSC, LIVE NATION INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC. and/or

KEY BRAND ENTERTAINMENT INC., that Defendant, CRAIG M. LAWSON, should be escorted out of, and ejected from, the premises.

24. Upon information and belief, the process of escorting and ejecting Defendant, CRAIG M. LAWSON, from the premises was commenced, but before that process had been completed, and while said Defendant remained on the subject premises, he was negligently released from the control of security personnel employed by, or otherwise under the direction and control of, the Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, CSC, LIVE NATION INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC. and/or KEY BRAND ENTERTAINMENT INC.

25. Upon information and belief, almost immediately after he was released from the control of security personnel, as aforesaid, Defendant, CRAIG M. LAWSON, foreseeably returned to an area of the premises where he attacked the Plaintiff, JASON MCNEIL, causing serious and permanent injuries.

26. The aforesaid incident and resulting injuries were caused solely by the negligence of the Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, CSC, LIVE NATION INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION

LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC., KEY BRAND ENTERTAINMENT INC., SMG FOOD AND BEVERAGE, LLC, ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC and CRAIG M. LAWSON, their agents, servants and/or employees, which includes, but is not limited to, failing to provide adequate security; failing to properly and adequately train the security personnel that were provided; failing to enact adequate safeguards to protect the plaintiff, failing to enact and adhere to appropriate policies and procedures with regard to security; failing to enact and adhere to appropriate policies and procedures with regard to alcohol consumption, failing to properly detain and escort the Defendant, CRAIG M. LAWSON, from the subject premises, which caused Plaintiff, JASON MCNEIL, to be struck and seriously and permanently injured by Defendant, CRAIG M. LAWSON.

**AS AND FOR A SECOND CAUSE OF ACTION
PLAINTIFFS ALLEGE:**

27. Plaintiffs repeat and re-allege paragraphs 1 through 26.

28. That Defendant, SMG FOOD AND BEVERAGE, LLC, contracted with Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, CSC, LIVE NATION INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC. and/or

KEY BRAND ENTERTAINMENT INC. to be the exclusive food and beverage vendor at the Darien Lake Performing Arts Center, located at 9993 Alleghany Road, Darien Center, New York 14040.

29. That Defendant SMG FOOD AND BEVERAGE, LLC subcontracted with Defendant, ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC, to be the exclusive food and beverage vendor at the Darien Lake Performing Arts Center, located at 9993 Alleghany Road, Darien Center, New York 14040.

30. That on July 5, 2013, Defendants, SMG FOOD AND BEVERAGE, LLC and/or ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC, were/was the exclusive food and beverage vendor(s) at the Darien Lake Performing Arts Center, located at 9993 Alleghany Road, Darien Center, New York 14040.

31. That on the aforesaid date, Defendant, CRAIG M. LAWSON, was intoxicated by alcohol at the time that he attacked the plaintiff, JASON MCNEIL, as aforesaid.

32. That Defendants, SMG FOOD AND BEVERAGE, LLC and/or ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC, caused and/or contributed to the intoxication of Defendant, CRAIG M. LAWSON on July 5, 2013 by unlawfully selling to the Defendant, CRAIG M. LARSON, or unlawfully assisting in the procurement of, alcoholic beverages that were consumed by said Defendant, CRAIG M. LAWSON.

33. That by reason of the intoxication of Defendant, CRAIG M. LAWSON, Plaintiff, JASON MCNEIL sustained serious and permanent injuries.

34. That the acts committed by Defendants, SMG FOOD AND BEVERAGE, LLC and/or ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC, constitute a violation of New York State General Obligations Law §11-101, and as such, Plaintiffs are entitled to recover both actual and exemplary damages from said Defendants.

**AS AND FOR A THIRD CAUSE OF ACTION
PLAINTIFFS ALLEGE:**

35. Plaintiffs repeat and re-allege paragraphs 1 through 34.

36. That based on the aforementioned actions, the Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, CSC, LIVE NATION INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC., KEY BRAND ENTERTAINMENT INC., SMG FOOD AND BEVERAGE, LLC, ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC and CRAIG M. LAWSON, acted in reckless disregard for the safety of the Plaintiff, JASON MCNEIL.

37. Based upon the aforesaid reckless disregard for the safety of Plaintiff, JASON MCNEIL, by Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, CSC, LIVE NATION INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC. and/or KEY BRAND ENTERTAINMENT INC., SMG FOOD AND BEVERAGE, LLC, ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC and CRAIG M. LAWSON, said Plaintiff was caused to sustain serious and permanent injuries, and as such, Plaintiffs are entitled to recover both compensatory and exemplary damages.

**AS AND FOR A FOURTH CAUSE OF ACTION
PLAINTIFFS ALLEGE:**

38. Plaintiffs repeat and re-allege paragraphs 1 through 37.

39. Plaintiff, PAMELA MCNEIL, is, and at all relevant times herein has been, the lawful wife of Plaintiff, JASON MCNEIL, and, as such, was entitled to her husband's support, society, companionship, guidance, services, and consortium.

40. As a result of the aforesaid negligence and reckless disregard of the Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, CSC, LIVE NATION INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS,

INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC., KEY BRAND ENTERTAINMENT INC., SMG FOOD AND BEVERAGE, LLC, ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC and CRAIG M. LAWSON, Plaintiff JASON MCNEIL, suffered serious and permanent injuries.

41. As a result of the injuries suffered by Plaintiff, JASON MCNEIL, Plaintiff, PAMELA MCNEIL, has suffered and will continue to suffer loss of support, society, companionship, guidance, services, and consortium.

42. One or more of the exceptions to the Limited Liability Provisions of CPLR Article 16 apply herein, specifically, those set forth in paragraphs 2 and 7 of CPLR §1602.

WHEREFORE, Plaintiffs, JASON MCNEIL and PAMELA MCNEIL, do hereby demand judgment against the Defendants, CNL INCOME DARIEN LAKE, LLC, DLFE MANAGEMENT COMPANY, LLC, DLFE MANAGEMENT COMPANY II, LLC, CSC, LIVE NATION INC., LIVE NATION WORLDWIDE, INC., LIVE NATION MTOURS (U.S.A.), INC., LIVE NATION CONCERTS, INC., LIVE NATION MARKETING, INC., LIVE NATION LGTOURS (USA), LLC, KEY BRAND FAMILY ENTERTAINMENT, INC., LIVE NATION UTOURS (USA), INC., KEY BRAND ENTERTAINMENT INC., SMG FOOD AND BEVERAGE, LLC, ARAMARK SPORTS AND ENTERTAINMENT SERVICES, LLC and CRAIG M. LAWSON, jointly and severally, in the amount of Seventy-Five million (\$75,000,000.00) dollars compensatory damages, plus punitive damages in the amount of

Seventy-Five million (\$75,000,000.00) dollars on the Second and Third Causes of Action, together with the costs and disbursements of this action.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury of all claims asserted in this Complaint.

DATED: Lancaster, New York
September 3, 2014

/s/ Donald P. Chiari, Esq.
Donald P. Chiari, Esq.
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